



Republic of the Philippines
COMMISSION ON ELECTIONS
Intramuros, Manila

**CONSOLIDATED RESOLUTION
FOR: (1) THE GUIDELINES ON THE
ESTABLISHMENT AND OPERATION
OF COMELEC CHECKPOINTS; AND
(2) INSTRUCTIONS FOR THE
CONDUCT OF PRELIMINARY
EXAMINATION OF VIOLATIONS OF
THE BAN ON THE BEARING,
CARRYING OR TRANSPORTING
FIREARMS OR OTHER DEADLY
WEAPONS, AND THE
EMPLOYMENT, AVAILMENT AND
ENGAGEMENT OF THE SERVICES
OF SECURITY PERSONNEL AND
BODYGUARDS, IN CONNECTION
WITH THE MAY 09, 2022 NATIONAL
AND LOCAL ELECTIONS (NLE)**

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ABAS, S.M., Chairman
GUANZON, M.R.A.V., Commissioner
INTING, S.B., Commissioner
CASQUEJO, M.S., Commissioner
KHO, A.T.K.J., Commissioner
FEROLINO, A.P., Commissioner

Promulgated: December 16, 2021

A handwritten signature in black ink, appearing to be "S.M. Abas", written over the printed name of the Chairman.

RESOLUTION NO. 10741

WHEREAS, to effectively implement the Firearms Ban during the Election Period, it is necessary to establish Commission on Elections ("COMELEC") checkpoints;

WHEREAS, the COMELEC recognizes the necessity of promulgating guidelines and instructions consistent with existing Philippine National Police (PNP) Standard Operating Procedures and rules and regulations, relative to the establishment of checkpoints, and the conduct of

preliminary examination for election offenses in connection with the May 09, 2022 National and Local Elections ("NLE");

WHEREAS, there is a need to ensure that in the implementation of the proper search and seizure procedures at COMELEC checkpoints, civil, political and human rights are not violated;

WHEREAS, for the prompt and proper investigation and successful prosecution of alleged violations of the Ban on the Bearing, Carrying or Transporting of Firearms and Other Deadly Weapons, and the Employment, Availment and Engagement of Security Personnel or Bodyguards, it is necessary to authorize the Chiefs of Police/Station Commanders in cities and municipalities to conduct the preliminary examinations therefor.

WHEREAS, the COMELEC is mandated under the Constitution and Election Laws to investigate and when appropriate, prosecute cases of violations of election laws;

WHEREAS, the COMELEC aims to further enhance and maintain uniform procedures in the law enforcement, investigation and special police operations of the PNP in connection with the May 09, 2022 NLE;

NOW, THEREFORE, pursuant to the powers vested in it by the Constitution, the Omnibus Election Code (B.P. 881, as amended), and other election laws, the COMELEC **RESOLVED**, as it hereby **RESOLVES**, to promulgate the following guidelines and instructions:

RULE I
GUIDELINES ON THE ESTABLISHMENT AND OPERATION OF
COMELEC CHECKPOINTS

Section 1. Authority to Establish COMELEC Checkpoints. - There shall be at least one (1) COMELEC checkpoint in each city/municipality. However, additional checkpoints, including those coming from other PNP/AFP

commands outside the city/municipality, shall be established in coordination with the Election Officer (EO) having jurisdiction over the city/municipality.

Section 2. Notice of Location of COMELEC Checkpoints. - The EO shall post the locations of COMELEC checkpoints at the Office of the Election Officer (OEO), and the respective offices of the PNP and AFP. Whenever possible, notices thereof will also be disseminated to the non-government organizations, civil society groups and members of the media in the locality.

Section 3. Spot Checkpoints. - Where the circumstances warrant, spot checkpoints may be established in locations other than those mentioned in the preceding section. Before establishing such checkpoints, the coordinating officer/team leader shall give prior notice and coordinate with the EO having jurisdiction over the area. The establishment of spot checkpoints shall follow the same guidelines for COMELEC checkpoint under Section 6 of this Rule.

Section 4. Personnel to Man Checkpoints. - Any unit designated to man a COMELEC checkpoint must be led by a regular member of the AFP or the PNP with a rank of at least Lieutenant/Police Lieutenant. In cases where there is no available AFP/PNP officer of said rank, the highest ranking officer shall make a special designation of a lower ranking officer or non-commissioned officer to act as a commanding officer/team leader of the COMELEC checkpoint.

Adequate number of AFP and PNP personnel shall man the checkpoints and must be in complete service uniform with the name plates and other identification tags clearly visible and readable, and shall not be under the influence of intoxicating liquor and/or dangerous drug as defined under pertinent laws, rules and regulations. Any violation hereof shall make the offender and his commanding officer/team leader jointly liable for administrative action, without prejudice to the prosecution of any criminal offense.

Section 5. Briefing by the Commanding Officer/Team Leader. - A briefing must be given by the commanding officer/team leader to all members of the

unit who will be designated to man the checkpoints, with emphasis on the proper manner of searching with reasonableness, in accordance with the rules.

Section 6. Guidelines on the Establishment of COMELEC Checkpoints. - The following guidelines must be observed on the establishment of COMELEC checkpoints:

- a. A COMELEC checkpoint must be well-lighted, properly identified and manned with uniformed personnel. It must be well-lighted so as to allow those who will pass through it to easily identify the AFP/PNP uniformed personnel manning the checkpoints with their name plates and other identification tags clearly visible and readable;
- b. Every COMELEC checkpoint shall have a signboard measuring three feet by four feet (3'x4'), to clearly identify the place as a COMELEC checkpoint from a reasonable distance.

The following shall be printed/painted on both sides of the signboard in bold letters on a white background:

STOP

COMELEC CHECKPOINT

**Please bear with us
Thank you for your cooperation.**

NAME AND OFFICE OF THE ELECTION OFFICER

NAME AND OFFICE OF THE COMMANDING OFFICER/TEAM LEADER



There must also be signboards directing motorists to slow down with an indication that there is COMELEC checkpoint ahead. Warning signs should be utilized (e.g., Slowdown Checkpoint Ahead, Checkpoint 20 Meters Ahead, etc.) to give sufficient notice to the public as they approach a checkpoint;

- c. Upon approach to any COMELEC checkpoint, the team manning it must require the motorists to slow down, as well as courteously request to dim the vehicle headlights and turn on cabin lights. In a checkpoint inquiry, the occupants cannot be compelled to step out of the vehicle;
- d. Only visual search is required. The search which is normally permissible is limited to visual search where the officer simply looks into the vehicle and flashes a light therein without opening the car's door;
- e. No person may be subjected to a physical or body search in the absence of any reasonable ground to believe that a person has just committed, is about to commit, or is committing a crime;
- f. The public is not obliged to open the glove compartment, trunk or bags. The personnel manning the checkpoint cannot compel the motorists to open the trunk or glove compartment of the vehicle or any package contained therein;
- g. Ordinary/routine questions may be asked with courtesy. Checkpoint may involve only a brief detention of travelers during which the vehicle's occupants are required to answer a brief question or two;
- h. Personnel manning the checkpoint shall always observe the minimum public health standards;
- i. In case of any violation, incident or untoward circumstance during the conduct of COMELEC checkpoint, a report thereon must be made and submitted to the EO within twenty-four (24) hours to ensure proper monitoring and reporting of violations.

Section 7. Searches of COMELEC Checkpoint. - Any search at any COMELEC checkpoint must be made only by members of the unit designated to man the same. It should be done in a manner which will impose minimum inconvenience upon the person or persons so searched, to the end that civil, political and human rights of any person are not violated.

As a rule, a valid search must be authorized by a search warrant duly issued by an appropriate authority. However, a warrantless search can be made in the following cases:

- a. When the occupant/s of the vehicle appear/s to be suspicious or exhibit/s unnatural reaction, such that any uniformed member of the unit designated to man the checkpoint observes unusual conduct which convince such member to believe that a criminal activity exists;
or
- b. On the basis of prior confidential information which are reasonably corroborated by other attendant matters.

In all searches made in the checkpoints, the searching personnel must wear the required personnel protective equipment (PPE).

The conduct of searches in the checkpoint must be in accordance with the provisions of A.M. No. 21-06-08-SC on the rule on the use of body-worn cameras or alternative recording device, when practicable.

Section 8. Procedure in Case a Checkpoint is Ignored. - If a person ignores the checkpoint, the commanding officer/team leader must immediately report such incident to the adjacent teams/police stations stating the particular details of the person/s evading the checkpoint. If necessary, the team must immediately coordinate with such adjacent teams or stations in order to establish roadblock/s in accordance with existing standard operating procedures of the PNP under PNPM-DO-DS-3-2-13 ("PNP Handbook").

Section 9. Procedures in Cases Where There is an Apparent Violation of the Ban on the Bearing, Carrying or Transporting of Firearms or Other Deadly Weapons. - The following procedures must be followed in cases where there

is an apparent violation of the ban on the bearing, carrying or transporting of firearms or other deadly weapons;

- a. Any member of the team manning the checkpoint must ask for the corresponding Certificate/s of Authority to bear, carry or transport the firearms, ammunitions, explosives, controlled chemicals or any parts/components thereof, including the necessary accompanying permits and licenses required under pertinent laws, upon which such Certificate was issued for. During the election period, any person not in possession of any Certificate of Authority issued by the Committee on the Ban on Firearms and Security Concerns (CBFSC), even if in possession of the permits and licenses therefor is presumed to be without authority to bear, carry or transport the firearms, ammunitions, explosives or any parts/components thereof;
- b. All standard operating procedures of the PNP under the PNP Handbook, must be observed, more particularly on the conduct of spot checks (Rule 10), regular police checkpoint (Rule 11.4), cases where the check point is ignored (Rule 11.6), and dealing with hostile situation (Rule 11.8);
- c. In cases where the circumstances warrant a justification for a valid arrest and/or searches incidental thereto, the procedures for arrests and searches as specified under the PNP Handbook, must be observed, more particularly the guidelines for High-Risk Stop and High-Risk Arrest (Rule 11.9), Arrest Without a Warrant (Rule 13.3), and Procedures for effecting a warrantless arrest (Rule 13.5).

Section 10. Rights of Person Arrested. - Any person arrested at a COMELEC checkpoint must be treated humanely and with utmost respect for his constitutional rights. He must be informed of the following rights:

- a. To remain silent, and be informed that any statement made may be used against said person in court. This right cannot be waived except in writing and in the presence of competent and independent counsel;
- b. To have competent and independent counsel preferably of the person's choice, but if the latter cannot afford the services of a counsel, said person must be provided with one. The right cannot be waived except in writing and in the presence of competent and independent counsel;
- c. To be released from detention if no charges have been filed against the person within the allowable period/s from arrest under the law, unless said person is charged under P.D. 1866, as amended, Republic Act (R.A.) No. 10591 (Comprehensive Firearms and Ammunition Regulation Act), and other rules and regulations implemented by the COMELEC. In no case shall the period of detention exceeds thirty-six (36) hours from arrest, if no charge has been filed before the Prosecutor's Office having jurisdiction over the city/municipality, against the person arrested.
- d. When women or children are among the suspects or arrestees, the arresting officer shall task the Women's and Children's Protection Desks (WCPD) officer or a policewoman who is familiar with women and children protection desk duties, to conduct the pat-down search, whenever necessary, in accordance with Rule 13.6 (c) of the PNP Handbook.
- e. A separate Police Blotter shall be maintained for crime incident reports involving women and children and those cases involving a child in conflict with the law ("CICL") to protect their privacy pursuant to R.A. 9262 (Anti-Violence Against Women and Children Act of 2004) and RA. 9344 (Juvenile Justice and Welfare Act of 2006), respectively, following Rule 17.2 of the PNP Handbook.
- f. The AFP/PNP officers and personnel manning the checkpoint shall at all times ensure respect for the rights of any CICL as provided in the Philippine Constitution, domestic laws, the Convention on the Rights of the Child and other related international human rights instruments.

The procedures in handling of CICL under Rules 33.5 and 33.6 of the PNP Handbook shall be strictly followed.

- g. In cases involving persons with disability, the prohibitions on verbal, non-verbal ridicule and vilification under R.A. 9442 (An Act Amending R.A. No. 7277, otherwise known as the "Magna Carta for Disabled Persons, and for other Purposes) and its Implementing Rules and Regulations, and other relevant domestic and international laws shall be strictly observed.
- h. In cases involving violations committed by the elderly, due respect, courtesy and consideration shall be accorded to their persons, in regard of their age and physical state. The same respect, courtesy and consideration shall be accorded to pregnant women.

Section 11. Record of Arrest. - Any arrest made at a COMELEC checkpoint shall be immediately and chronologically recorded in a logbook for the purpose, stating the circumstances of the arrest and other particulars about the person and the confiscated weapons, ammunitions and materials.

The arresting officer shall execute an affidavit of arrest stating clearly and distinctly the facts and circumstances surrounding the arrest.

Section 12. Report and Turn-over of Arrested Person. - Any person arrested at a COMELEC checkpoint including the confiscated material, weapon, or ammunition, explosive or controlled chemicals, its spare parts and/or components, must be turned-over to the nearest law enforcement station or office together with the corresponding affidavit/s of arrest, for proper action.

The Chief of Police/Station Commander, or duly authorized PNP officer concerned, shall conduct a preliminary examination and submit the result thereof to the Provincial/City Prosecutor for preliminary investigation, copy furnished the Law Department, EO, and their respective operation centers.

Section 13. Documentation of the Conduct of Checkpoint. - The team conducting the checkpoint, if possible, shall photo/video-document their operation or at least part of it for purposes of evaluating/assessing whether the checkpoint is compliant with these rules. This is to ensure that the rights of persons passing through them are respected, provided that the documentation conducted is not intrusive.

Any incident or untoward circumstance in the conduct of COMELEC Checkpoints must be properly recorded and reported to the appropriate City or Municipal Joint Security Control Centers ("C/MJSCC"), which in turn shall forward the status and disposition of said occurrence to the appropriate Provincial Joint Security Control Center ("PJSCC"). The PJSCC shall make a weekly status/disposition report of any incident or untoward circumstance in the conduct of COMELEC Checkpoint in their respective Regional Joint Security Control Centers ("RJSCC"). The RJSCC shall forward a weekly status/disposition report of the said occurrence/s to the CBFSC Secretariat every Monday for the whole election period. In every case, the C/MJSCC shall notify in writing the CBFSC of any incident or untoward circumstance in the conduct of COMELEC checkpoint.

Section 14. Prohibition on Extortion/Solicitation Acceptance of Voluntary Offers of Cash or Gifts. - The team composing the checkpoint must not solicit or extort money from persons passing through the checkpoint nor accept voluntary offer of cash or gifts of whatever kind.

RULE II
INSTRUCTIONS TO THE CHIEFS OF POLICE OF
CITIES/MUNICIPALITIES ON THE CONDUCT OF PRELIMINARY
EXAMINATION FOR VIOLATION OF THE BANS ON FIREARMS,
OTHER DEADLY WEAPONS AND SECURITY PERSONNEL

Section 15. Preliminary Examination. - The Chief of Police, Station Commander, or the duly authorized PNP officer shall conduct the preliminary examination of all apprehensions for violation of the ban on the

bearing, carrying and transporting of firearms and other deadly weapons, and on the employment of security personnel and bodyguards, in their respective areas of jurisdiction.

Section 16. Procedures. - The Chief of Police, Station Commander, or duly authorized PNP officer or investigator shall:

- a. Take the affidavit of the arresting officer or policeman indicating therein the fact of arrest and the circumstances surrounding the arrest;
- b. Take the statement of the respondent/s;
- c. Confiscate the firearms and issue the proper receipt thereof;
- d. Cause the respondent/s to sign an affidavit binding said respondent to be present at the preliminary investigation at a later date before the prosecutor and that failure to do so shall constitute a waiver to present evidence as defense; and
- e. Take the statement of witnesses, if any.

Section 17. Rights of Arrested Person. - Any person arrested for violation of the bans specified in Sec. 1 hereof who is undergoing preliminary examination must be treated humanely and with utmost respect to constitutional and human rights, particularly his right as specified under Section 10 of Rule I on the Guidelines on the Establishment and Operation of COMELEC Checkpoint.

Section 18. Disposition of Documents and Evidence. - The Chief of Police shall submit the investigation report, together with all documents and pieces of evidence gathered during the preliminary examination, within three (3) days from arrest to the corresponding provincial/city prosecutor, furnishing the CBFSC with copies of the report.

Upon proper representation by the named PNP officer above, request can be made with the concerned provincial/city prosecutor, furnishing the CBFSC, that the seized firearm/s shall be released from their custody for them to be

submitted to the PNP Crime Laboratory Offices for the required ballistics and cross-matching examinations.

The prosecutor shall then conduct an investigation which shall be resolved within five (5) days from its submission for resolution.

Section 19. Report of the CBFSC. - The CBSFC Secretariat shall submit to the CBFSC Chairperson a progress report stating the particulars of all arrests made during the election period. The CBFSC shall submit to the COMELEC *En Banc* a report of the said arrests made during the Election Period.

RULE III MISCELLANEOUS PROVISIONS

SECTION 20. Compliance with the Data Privacy Act of 2012 and its Implementing Rules and Regulations. - The COMELEC shall ensure that all its procedures are compliant with the *Data Privacy Act of 2012 and its Implementing Rules and Regulations*.

SECTION 21. Availability of Fund. - The COMELEC Finance Services Department (FSD), through its Budget Division, shall ensure that the field offices of the COMELEC are allocated with sufficient fund needed for the establishment of checkpoints, including the procurement of the required signages.

RULE IV EFFECTIVITY AND DISEMINATION

Section 22. Effectivity. - This Resolution shall take effect seven (7) days after its publication in two (2) daily newspapers of general circulation in the Philippines.

Section 23. Publication and Dissemination. - The Education and Information Department of the COMELEC is directed to cause the publication of this

Resolution in two (2) daily newspapers of general circulation in the Philippines, and to furnish with copies hereof the Secretary of Justice, Provincial and City Prosecutors, the AFP Chief of Staff, the Chief of the Philippine National Police, the Chiefs of Police of cities and municipalities, the Regional Election Directors, Provincial Election Supervisors and Election Officers of the COMELEC, to give this Resolution the widest dissemination.

SO ORDERED.

SHERIFF M. ABAS

Chairman

MA. ROWENA AMELIA V. GUANZON

Commissioner

SOCORRO B. INTING

Commissioner

MARLON S. CASQUEJO

Commissioner

ANTONIO T. KHO, JR.

Commissioner

AIMEE P. FEROLINO

Commissioner

CERTIFICATION

APPROVED by the Commission *En Banc* during its regular online meeting on **December 16, 2021**, pursuant to COMELEC RESOLUTION NO. 10671, "Supplemental Resolution to COMELEC Resolution No. 9936 promulgated on March 25, 2015, 'Rule on the Enactment and Promulgation of Executive or Administrative Resolutions' providing for other format of meetings to include online meetings applicable in times of the COVID-19 pandemic and the imposition of Community Quarantines and similar emergency situations".


ATTY. CONSUELO B. DIOLA
Acting COMELEC Secretary